

ATF/3272  
1253611

I certify that on the date specified below this correspondence is being sent by facsimile to facsimile number 703-308-7952, the facsimile number of the Board of Appeals and Interferences.

12/21/04

*Conrad O. Gardner*  
Conrad O. Gardner

Appeal No. 2004-2225  
Application No. 08/896,514  
Heard November 17, 2004

### RESPONSIVE TO THE ORDER FOR REMAND

Sir:

Responsive to the Order for Remand, paper number 43 dated December 10, 2004, applicant hereby attaches a copy of paper number 34 stating that the Affidavit of Philip C. Malte has been considered by the Examiner and commented thereon.

Respectfully submitted,

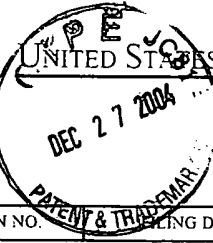
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/896,514	06/23/1997	CONRAD OLIVER GARDNER	95-004M	3272

7590

07/23/2004

Conrad O. Gardner  
1502 N. 97th Street  
Seattle, WA 98103

EXAMINER
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LEKNER, AVRAHAM H

ART UNIT	PAPER NUMBER
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DATE MAILED: 07/23/2004

34

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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0704

DATE MAILED:

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Commissioner for Patents

Supplemental response to appellant's reply brief:

The affidavit by Philip Malte was considered by the examiner and not deemed persuasive because it characterizes the current claims far more specifically than the language as presented, for example by improperly incorporating limitations from the specification into the claims regarding the cruise mode. Further, appellant's request to establish "pioneer status" is not persuasive in any respect. The evidence presented by appellant of 45 patents which cite as prior art at least one of the two patented parent cases is hardly definitive of a pioneer patent, and therefore the declaration does not serve to define over the art of record.

AVRAHAM LERNER  
PRIMARY EXAMINER*A. Lerner* 7/21/04**RECEIVED**  
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